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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Socheat Chy,  
v.  
Plaintiff,

Lam Sin Yam; Ray Lim; Tiffany Ngo; Ngo Asset Management, LLC; Tiffany Ngo in her capacity as trustee of the Tiffany Ngo Living Trust UTD; Naing Lam Yam; Cindy Kanya Chan; Molica Ratha Keo; Nivodeth Khiev; Cruise Thru Dairy, d/b/a Cruise Thru Dairy; Valero Mart Inc., d/b/a Valero Mart/ Arco Market Inc.; and Tiffany Ngo, d/b/a Speedy Wash,

## Defendants.

Case No. 2:17-cv-04325

## **OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

Action Filed: June 9, 2017  
First Amended Complaint Filed: August 16, 2017  
Second Amended Complaint Filed: September 5, 2017  
Motion to Dismiss Filed: September 19, 2017  
Hearing Date: November 6, 2017

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1           **I. INTRODUCTION**

2           This is a case about human trafficking and the corresponding conspiracy to  
 3 physically and emotionally terrorize a young woman, Socheat Chy, through a  
 4 forced labor scheme constituting racketeering activity. Defendants are individuals  
 5 and businesses directly engaged in the trafficking scheme, were agents of the  
 6 traffickers, and/or knowingly benefitted from the trafficking scheme.<sup>1</sup> Despite  
 7 Defendants' claims that Ms. Chy's pleadings are insufficient and Defendants'  
 8 insinuations that the facts all amount to a misunderstanding amongst purported  
 9 "family" members, the Defendants in fact trafficked Ms. Chy, abused her mentally  
 10 and physically, forced her to work without pay or breaks, physically confined her  
 11 in their gas stations, and deprived her of her immigration documentation to ensure  
 12 her continued subjugation. Defendants have asked this Court to dismiss four of Ms.  
 13 Chy's claims against them, including claims for unlawful conduct regarding  
 14 documents under the Trafficking Victims Protection Act ("TVPA"), false  
 15 imprisonment, negligent infliction of emotional distress, and Federal Racketeer  
 16 Influenced and Corrupt Organizations Act ("RICO"). Defendants' arguments  
 17 ignore allegations contained in the Second Amended Complaint ("Complaint") and  
 18 misconstrue the law governing Ms. Chy's claims. As a result, Defendants' motion  
 19 should be denied.

20  
 21

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22           <sup>1</sup> Defendants applicable to this motion are Lam Sin Yam ("Defendant Sin"); Ray Lim  
 23 ("Defendant Lim"); Tiffany Ngo ("Defendant Ngo"); Ngo Asset Management, LLC  
 24 ("Defendant Ngo Asset Management"); Tiffany Ngo in her capacity as trustee of the  
 25 Tiffany Ngo Living Trust UTD ("Defendant Ngo Trustee"); Cruise Thru Dairy, d/b/a  
 26 Cruise Thru Dairy ("Defendant Valero Gas Station"); Valero Mart Inc., d/b/a Valero  
 27 Mart/ Arco Market Inc. ("Defendant Arco Gas Station"); and Tiffany Ngo, d/b/a Speedy  
 Wash ("Defendant Speedy Wash") (collectively "Defendants"). The other Defendants to  
 this action did not move to dismiss the Second Amended Complaint, so only those that  
 brought the Motion to Dismiss Fourth, Seventeenth, Twenty-Second, and Twenty-Ninth  
 Claims for Relief are included within the definition of Defendants for purposes of this  
 Opposition filing.

1           **II. PROCEDURAL BACKGROUND**

2           Ms. Chy had made good faith efforts to respond to Defendants' arguments  
3 about the purported deficiencies in the allegations and claims in this action. After  
4 filing the initial complaint on June 9, 2017, Ms. Chy agreed to extend Defendants'  
5 time to respond, and thereafter met and conferred with Defendants on August 4,  
6 2017 about the purported pleading deficiencies. In response, Ms. Chy filed a First  
7 Amended Complaint on August 16, 2017 addressing certain of Defendants  
8 concerns.

9           After meeting and conferring with Defendants' counsel again on August 30,  
10 2017, the parties stipulated to Ms. Chy filing the Complaint on September 5, 2017,  
11 to name the corporate Doe defendants and add a twenty-ninth claim for relief.  
12 Thereafter, on September 14, 2017, the parties met and conferred a third time to  
13 discuss the Defendants' motion to dismiss arguments. As the Complaint  
14 sufficiently pleads facts supporting all claims asserted therein, Ms. Chy declined to  
15 further amend the complaint. Defendants' thereafter filed the instant motion to  
16 dismiss, which Ms. Chy opposes here.

17           **III. FACTS**

18           Defendants recruited and transported Ms. Chy from Cambodia on June 11,  
19 2013 to work in their three separate businesses and the California home of  
20 Defendants Sin and Ngo. Compl. ¶ 44. As soon as Ms. Chy arrived in the United  
21 States, Defendant Sin confiscated Ms. Chy's identity documents and withheld  
22 them until law enforcement retrieved them during a raid. Compl. ¶¶ 45, 119.  
23 Defendants forced Ms. Chy to work seven days a week, approximately 17 hours  
24 per day, at their Arco and Valero gas stations, their Speedy Wash, and Defendant  
25 Sin and Ngo's residence. Compl. ¶¶ 48-49, 74. Defendants made Ms. Chy sleep  
26 overnight at one of the gas stations, sometimes locking her in, and failed to pay her

1 the minimum required wages. Compl. ¶¶ 50-51, 55, 74, 76. Defendants physically  
 2 harmed, threatened, and psychologically coerced Ms. Chy to perform work against  
 3 her will and without proper pay, meals, or rests. Compl. ¶¶ 46-47, 58-65, 73, 77.

4       In late October 2013, Ms. Chy attempted to escape from Defendants Sin,  
 5 Lim, and Ngo. Compl. ¶ 66. Her attempt at freedom fell short when Defendant  
 6 Naing Lam Yam (not a party to this motion) conspired with other Defendants to  
 7 return Ms. Chy to the custody and control of Defendants Sin, Lim, and Ngo.  
 8 Compl. ¶¶ 66-71. When Defendant Sin obtained control over Ms. Chy again,  
 9 Defendant Sin accused Ms. Chy of betraying Defendant Sin, and emotionally  
 10 manipulated Ms. Chy by telling her that Ms. Chy's mother in Cambodia had  
 11 suffered a near-fatal motorbike accident as a result of Ms. Chy's purported  
 12 disloyalty and the betrayal. Compl. ¶¶ 71-72. For another 17 months, Defendants  
 13 Sin, Ngo, and Lim again forced Ms. Chy to work at their businesses and at  
 14 Defendant Sin and Ngo's residence. Compl. ¶ 74. Defendants continued to deny  
 15 Ms. Chy minimum required wages and breaks, and Defendants Ngo and Sin  
 16 continued to verbally and physically abuse Ms. Chy. Compl. ¶¶ 75, 77.  
 17 Defendants denied Ms. Chy necessary medical attention when, in or around August  
 18 2014, Ms. Chy tried to commit suicide in an attempt to escape Defendants. Compl.  
 19 ¶¶ 78-80. With the help of law enforcement, Ms. Chy finally escaped from  
 20 Defendants in September 2015. Compl. ¶ 83. After her rescue, Ms. Chy was  
 21 diagnosed with Post-Traumatic Stress Disorder ("PTSD"), and has been living in a  
 22 shelter for trafficking survivors. Compl. ¶ 84.

23 **IV. ARGUMENT**

24       **A. Legal Standard**

25       Ms. Chy's claim need only be "plausible" at this early stage of litigation, and  
 26 "[a] claim has facial plausibility when the plaintiff pleads factual content that

1 allows the court to draw the reasonable inference that the [Defendants are] liable  
 2 for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation  
 3 omitted). All well-pleaded factual allegations in the Complaint must be taken as  
 4 true, and all reasonable inferences must be drawn in Ms. Chy’s favor. *Id.*; *Pride v.*  
 5 *Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013). Indeed, her claims “should not be  
 6 dismissed under Rule 12(b)(6) ‘unless it appears *beyond doubt* that [she] can prove  
 7 no set of facts in support of [her] claim[s] which would entitle [her] to relief.’”  
 8 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988) (emphasis  
 9 added) (citing *Conley v. Gibson*, 355 U.S. 41, 45–46 (1957)).

10                   **B. The Fourth Claim under the TVPA for Document Abuse Applies**  
 11                   **to Defendants Because They Either Perpetrated the Violation or**  
 12                   **Knowingly Benefited from It.**

13                   Ms. Chy brings her Fourth Claim under the TVPA for unlawful conduct  
 14 with respect to documents, pursuant to 18 U.S.C. § 1592 and §1595(a). In their  
 15 Motion to Dismiss, Defendants claim that Ms. Chy failed to allege sufficient facts  
 16 regarding liability of Defendants Lim, Ngo, Ngo Asset Management, Ngo Trustee,  
 17 Valero Gas Station, Arco Gas Station, and Speedy Wash under this provision. Yet  
 18 Defendants ignore the TVPA provisions explicitly extending liability for damages  
 19 and reasonable attorneys’ fees from both perpetrators of the violations and from  
 20 those who *knowingly benefitted* from the violations. *See* Mem. of P. & A. in Supp.  
 21 Defs.’ Mot. 7; *compare* Compl. ¶¶ 119-120. As set forth in the Complaint, an  
 22 enabling statute within the TVPA, 18 U.S.C. §1595(a), states that a civil action  
 23 may be brought:

24                   ...against the perpetrator (or whoever **knowingly benefits**, financially or by  
 25 receiving anything of value from **participation in a venture which that**  
 26 **person knew or should have known has engaged in an act in violation of**  
 27 **this chapter**) ....

1 18 U.S.C. § 1595(a) (emphasis added). Section 1592, to be read in conjunction  
 2 with this enabling provision, provides that it is a violation of the TVPA to conceal,  
 3 remove, confiscate, or possess any actual or purported passport or other  
 4 immigration document to prevent or restrict that person's liberty to move or travel,  
 5 or to maintain the labor or services of that person. 18 U.S.C. § 1592. Such a  
 6 violation, and knowingly benefiting from that violation are the exact actions the  
 7 Complaint alleges as to all Defendants. *See* Compl. ¶¶ 7-12, 44-57, 72-77, 120.

8 Ms. Chy has alleged sufficient facts to demonstrate both that Defendant Sin  
 9 removed, confiscated, and possessed her documents in violation of 18 U.S.C. §  
 10 1592 and 1595, and that each and all these Defendants knowingly benefitted from  
 11 this misconduct and conspired in Ms. Chy's corresponding trafficking scheme.  
 12 Compl. ¶¶ 7-12, 44-57, 72-77, 120. Specifically, Ms. Chy alleges that Defendant  
 13 Sin took Ms. Chy's passport and forced Ms. Chy to make promises under the threat  
 14 of harm if she betrayed them. Compl. ¶¶ 45-46. Ms. Chy further alleged specific  
 15 benefits that accrued to Defendants based on their denial of her liberty and freedom  
 16 to leave, in part based upon withholding her passport, as well as through the  
 17 unpaid<sup>2</sup> and forced labor that they required her to provide to their businesses and in  
 18 their homes. Compl. ¶¶ 7-12, 44-57, 72-77, 120. The confiscation of documents  
 19 contributed to the atmosphere of threats, abuse, and coercion all Defendants  
 20 intentionally created in order to obtain the benefit of Ms. Chy's forced labor. *See*,  
 21 *e.g.*, Compl. ¶¶ 7-12, 45-65, 74-77. Ms. Chy also alleges specific details about  
 22 Defendants confining her movement, constraining her ability to leave, and  
 23 curtailing her liberty; for example, Defendants forced her to sleep at nights at their  
 24 gas station, where they locked her in. Compl. ¶¶ 55, 76. Further, Ms. Chy alleged  
 25 conspiracy, agency, and alter ego claims against all Defendants based on

26 \_\_\_\_\_  
 27 <sup>2</sup> As alleged in the Complaint, Defendants paid Ms. Chy approximately \$1,200 for 17  
 months of labor and nothing at all for 5 months of labor. Compl. ¶¶ 50, 54, 74.

1 information and belief that each and every defendant worked together to traffic Ms.  
 2 Chy, obtain her forced labor, and knowingly benefit from a venture that would  
 3 violate the TVPA. Compl. ¶¶ 7, 9-12, 16-20, 45, 119, 120. Based on the statutory  
 4 language enabling a plaintiff to bring claims against both the perpetrator of the  
 5 unlawful conduct regarding documents and those knowingly benefitting from such  
 6 conduct, these allegations suffice to state a claim under 18 U.S.C. § 1592 and 1595  
 7 of the TVPA against all Defendants.

8 **C. Defendants' Statute of Limitations Defense to Ms. Chy's False  
 9 Imprisonment Claim Should be Denied because She Properly Pled  
 10 Equitable Tolling.**

11 Defendants' motion to dismiss Ms. Chy's False Imprisonment claim on  
 12 statute of limitations grounds based on failure to state facts supporting equitable  
 13 tolling should be denied for two reasons: (1) courts have found that equitable  
 14 tolling requires reference to facts outside the scope of the complaint alone and is  
 15 not ripe at the pleading stage; and (2) Ms. Chy pled sufficient facts to support  
 16 equitably tolling the statute of limitations applicable to her False Imprisonment  
 17 claim—namely that Defendants' conduct caused Ms. Chy's delay in filing.

18 **1. Equitable Tolling is Not Ripe at the Pleading Stage**

19 As an initial matter, the court should not dismiss Ms. Chy's Seventeenth  
 20 Claim for Relief—False Imprisonment at this early stage in the litigation based  
 21 solely on the pleadings. Courts have held that the question of whether equitable  
 22 tolling applies in a given case "ordinarily requires reference to matters outside the  
 23 pleadings, and is not generally amenable to resolution on a Rule 12(b)(6) motion,

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1 where review is limited to the complaint alone.”<sup>3</sup> *Cervantes v. City of San Diego*,  
2 5 F.3d 1273, 1276 (9th Cir. 1993); see Johnson v. Dovey, No. CV06-01985-DDP  
3 JCR, 2008 WL 4375654, at \*7 (C.D. Cal. Aug. 27, 2008). Instead, “California’s  
4 fact-intensive test for equitable tolling is more appropriately applied at the  
5 summary judgment or trial stage of litigation.” *Cervantes*, 5 F.3d at 1276.  
6 Therefore, the Court should decline to dismiss Plaintiff’s claim of False  
7 Imprisonment at this time.

**2. Ms. Chy Pled Sufficient Facts to Allege Equitable Tolling in the Complaint.**

10       Here, Ms. Chy more than adequately pled facts to support equitable tolling  
11 of her False Imprisonment claim, including Defendants' years of physical and  
12 emotional abuse, psychological and personal coercion, threats of harm to Ms. Chy,  
13 and forced labor without proper compensation. *See, e.g.*, Compl. ¶¶ 45-46, 58-61,  
14 72-77, 84, 99, 106, 147, 285. For a claim to survive a motion to dismiss, there  
15 only needs to be some facts supporting a potential equitable tolling argument.  
16 *Cervantes*, 5 F.3d at 1277 (“The sole issue is whether the complaint, *liberally*  
17 construed in light of our ‘notice pleading’ system, adequately alleges facts showing  
18 the *potential* applicability of the equitable tolling doctrine.” (emphasis added)).

<sup>3</sup> Only in “unusual cases,” is it appropriate for a court to dismiss a claim despite a defense of equitable tolling. *Cervantes*, 5 F.3d at 1276; *Daviton v. Columbia/HCA Healthcare Corp.*, 241 F.3d 1131, 1140 (9th Cir. 2001) (noting that “only in the rare case could the [equitable tolling] inquiry proceed at the pleading stage”). In such rare cases, a superficial review of the complaint demonstrates that the plaintiff could not have prevailed as a matter of law on equitable tolling as plead. *Vaughan v. Grijalva*, 927 F.2d 476, 478 (9th Cir.1991). For example, a plaintiff cannot prevail on an equitable tolling defense where there is an unreasonable and bad faith year-and-a-half wait to file a claim. *Cervantes*, 5 F.3d at 1276. Here, there is no evidence of Plaintiff’s bad faith. Rather, as alleged in the Complaint, it was Defendants’ bad faith that caused Ms. Chy’s emotional distress and prevented her from quickly rebuilding her life after her rescue. *See, e.g.*, Compl. ¶¶ 45-46, 58-61, 84, 106, 147.

1 Furthermore, courts routinely apply equitable tolling where defendants' wrongful  
 2 conduct caused a plaintiff's delay in filing—the exact situation pled in this case.  
 3 *See Ford v. Artiga, No. 2:12-CV-02370 KJM-AC, 2013 WL 3941335, at \*7 (E.D.*  
 4 *Cal. July 30, 2013) (citing Ateeq v. Najor, 15 Cal. App. 4th 1351, 1357 (1993))*  
 5 (“California courts have recognized that equitable tolling is appropriate ‘where  
 6 delay in commencing an action is induced by the conduct of the defendant.’”).  
 7 Indeed, the Ninth Circuit concluded that equitable tolling applies especially when  
 8 the defendant’s actions leave a plaintiff “so broken and damaged that she cannot  
 9 protect her own rights.” *Stoll v. Runyon, 165 F.3d 1238, 1242 (9th Cir. 1999)*  
 10 (applying equitable tolling where defendant’s physical and emotional abuse  
 11 prevented plaintiff from timely pursuing her wage claim).

12 As well-pled in the Complaint, Defendants’ conduct left Ms. Chy broken  
 13 and caused her delay in filing. From 2013 to 2015, Defendants subjected Ms. Chy  
 14 to years of physical and emotional abuse. Compl. ¶¶ 45-46, 58-61, 72-77, 106.  
 15 Additionally, Defendants withheld Ms. Chy’s money and identity documents, and  
 16 her identity documents were returned only after a law enforcement raid, following  
 17 Ms. Chy’s rescue on September 28, 2015. Compl. ¶¶ 119, 147, 267-269. After her  
 18 rescue, Ms. Chy had to restart her life with few resources, limited English language  
 19 skills, and a fragile emotional state. Compl. ¶¶ 84, 147. Since being rescued, Ms.  
 20 Chy has been diagnosed with PTSD, and has been living in a shelter for trafficking  
 21 survivors where she is learning how to reintegrate into society. Compl. ¶ 84. Ms.  
 22 Chy pled facts confirming that she was not able to bring these claims earlier. Ms.  
 23 Chy’s emotional and financial challenges—caused by Defendants’ conduct—span  
 24 a time period after her release, thereby extending Ms. Chy’s deadline to file her  
 25 False Imprisonment claim.

26 Ignoring these clearly pled facts, Defendants’ argue that no facts were pled  
 27

1 regarding equitable tolling and that only the period the Plaintiff was detained  
 2 would be covered by the doctrine. Such an outcome would be inconsistent with  
 3 the equity principles behind the tolling doctrine, which as a matter of law extends  
 4 the time to file until after Ms. Chy finally escaped her traffickers. *See Lantzy v.*  
 5 *Centex Homes*, 31 Cal. 4th 363, 370 (2003) (equitable tolling is a judge-made  
 6 doctrine “to suspend or extend a statute of limitations as necessary to ensure  
 7 fundamental practicality and fairness”); *Ellul v. Congregation of Christian Bros.*,  
 8 774 F.3d 791, 801 (2d Cir. 2014) (“[E]quitable tolling applies *after* the claim has  
 9 already accrued, suspending the statute of limitations to prevent unfairness to a  
 10 diligent plaintiff.” (emphasis in the original) (citation omitted)). As Defendants  
 11 acknowledge, a claim for false imprisonment begins to accrue when a plaintiff is  
 12 released from confinement. *See* Mem. of P. & A. in Supp. Defs.’ Mot. 8; *see also*  
 13 *Collins v. Los Angeles Cty.*, 241 Cal. App. 2d 451, 455 (1966) (concluding that  
 14 “the statute of limitations begins to run from the termination of the imprisonment  
 15 of plaintiff”).

16       Indeed, Defendants’ reliance on *Bureerong v. Uvawas*, 922 F. Supp. 1450  
 17 (*C.D. Cal. 1996*) and *Hernandez v. Attisha*, No. 09CV-2257-IEGWMC, 2010 WL  
 18 816160 (*S.D. Cal. Mar. 5, 2010*) to support their argument is misplaced. In both  
 19 cases, the courts applied equitable tolling to allow the plaintiffs’ cases to go  
 20 forward. *Bureerong*, 922 F. Supp. at 1463 (finding that equitable tolling applied to  
 21 plaintiffs’ claims because plaintiffs were unable to bring their claims while  
 22 physically restrained in a garment factory); *Hernandez*, 2010 WL 816160, at \*4-5  
 23 (finding that equitable tolling applied to plaintiff’s claims). Moreover, neither of  
 24 these cases expressly address whether equitable tolling applies to a claim, such as  
 25 false imprisonment, which accrues only after the plaintiff is released from  
 26 confinement. *See Collins*, 241 Cal. App. 2d at 455. Finally, although the

1     Hernandez court questioned whether the continuing tort doctrine delayed accrual  
 2 of a plaintiff's emotional distress claims while the plaintiff was confined to the  
 3 defendants' home, it did not find that equitable tolling only covered the period of  
 4 detention. Instead, the court equitably tolled Plaintiff's claims because  
 5 "[d]efendants' alleged misconduct prevented [p]laintiff from complying with the  
 6 statute of limitations": allowing the "[d]efendants to parlay their wrongful acts  
 7 into legal immunity" would be "exactly the type of unjust forfeiture equitable  
 8 tolling is designed to obviate." [2010 WL 816160, at \\*4-5](#). Both of these  
 9 arguments apply to Ms. Chy's circumstances and support application of equitable  
 10 tolling doctrine in this matter.

11                   **D. Ms. Chy's Negligent Infliction of Emotional Distress Should Not  
 12 Be Dismissed Because it Constitutes a Separate and Distinct Claim Under  
 13 California Law.**

14                   Ms. Chy pled sufficient facts to allege a separate claim for negligent  
 15 infliction of emotional distress, which under California law is a cause of action  
 16 separate and distinct from a negligence claim. Although negligent infliction of  
 17 emotional distress ("NIED") has been construed as a subset of a negligence claim,  
 18 *see, e.g., Wong v. Tai Jing, 189 Cal. App. 4th 1354, 1377* (2010), courts have also  
 19 found that plaintiffs may "proceed with multiple, independent theories of  
 20 negligence" by pleading "additional, particularized facts in support of a separate  
 21 NIED theory." [Hernandez v. City of Richmond, No. 14-CV-03079-JST, 2014 WL  
 22 5034756, at \\*5](#) (N.D. Cal. Oct. 8, 2014). One court stated that "the right to  
 23 damages for NIED is a separate and distinct right belonging to the NIED plaintiffs."  
 24 [Eriksson v. Nunnink, 233 Cal. App. 4th 708, 727 \(2015\)](#).

25                   Defendants oversimplify the case law defining NIED by relying exclusively  
 26 on a single case without considering or addressing the subsequent development of  
 27

1 case law on the issues. First, the case upon which Defendants rely clarifies that  
 2 although the tort of NIED is not independent of negligence, that does not mean that  
 3 an NIED claim cannot be brought, but rather that “there is no duty to avoid  
 4 negligently causing emotional distress to another, and that damages for emotional  
 5 distress are recoverable only if the defendant has breached some other duty to the  
 6 plaintiff.” *Potter v. Firestone Tire & Rubber Co.*, 6 Cal. 4th 965, 984 (1993).  
 7 Indeed, after *Potter*, California courts articulated a “direct victim theory” of NIED  
 8 as a separate cause of action in which the plaintiff alleges emotional injuries  
 9 arising out of non-physical acts which breach a duty. *Granger v. Lowe's Home*  
 10 *Ctrs., LLC*, No. 114CV01212DADSKO, 2016 WL 1138175, at \*4 (E.D. Cal. Mar.  
 11 23, 2016) (finding that under the direct victim theory “a plaintiff may recover  
 12 damages for serious emotional distress—absent a physical injury—if the distress  
 13 results from ‘a breach of duty owed the plaintiff’ . . . .”) (citation omitted); *see*  
 14 *also Eriksson*, 233 Cal. App. 4th at 727 (distinguishing “bystander” NIED claims  
 15 from “direct victim” NIED claims); *Hernandez*, 2014 WL 5034756, at \*5 (noting  
 16 that plaintiff could have alleged a separate theory of NIED with “particularized  
 17 facts”). In *Granger*, the court concluded that, while the plaintiffs’ NIED claims  
 18 originating from physical injuries should be “subsumed by their general negligence  
 19 claim,” the plaintiffs’ NIED claims stemming from serious emotional distress  
 20 “absent a physical injury” could continue under a “direct victim theory” if that  
 21 distress “results from a breach of duty owed the plaintiff that is assumed by the  
 22 defendant or imposed on the defendant as a matter of law, or that arises out of a  
 23 relationship between the two.” 2016 WL 1138175 at \*4 (citing *Burgess v.*  
 24 *Superior Court*, 2 Cal. 4th 1064, 1073 (1992) (internal quotation mark omitted)).

25 Consistent with this doctrine, Ms. Chy pled emotional injuries stemming  
 26 from multiple non-physical acts in breach of duties that the Defendants owed to her.  
 27

1 Ms. Chy alleged that Defendants caused her to experience “fear, depression,  
2 humiliation, mental anguish, and severe . . . emotional distress” when they  
3 breached the duty of care they assumed as both her employer and “by virtue of  
4 their role in bringing her from Cambodia to the United States with knowledge of  
5 her vulnerability and dependence upon Defendants.” Compl. ¶ 216; *see also*  
6 Compl. ¶¶ 63-64, 78, 80, 84. She also pled facts detailing numerous non-physical  
7 acts that caused her severe emotional distress, including but not limited to:  
8 persistent verbal abuse (Compl. ¶¶ 58, 60-61, 77); threats against Ms. Chy and her  
9 family (Compl. ¶¶ 34, 45-47, 72); controlling Ms. Chy’s activities and travel  
10 (Compl. ¶¶ 25-26, 44, 76); pressuring Ms. Chy and exposing her to cultural shame  
11 and ridicule (Compl. ¶¶ 33, 39-40); forcing Ms. Chy to work long hours and  
12 denying her rest (Compl. ¶¶ 48-53, 74-75); and abusive verbal remarks dismissing  
13 Ms. Chy’s condition during her suicide attempt (Compl. ¶ 79). Based on these  
14 facts in the Complaint, Defendants committed multiple *non-physical* acts causing  
15 Ms. Chy severe *emotional* distress, in breach of a duty or duties imposed on  
16 Defendants as a matter of law or which arose out of a relationship between the two.  
17 Therefore, Ms. Chy has effectively pled a separate claim of NIED.

**E. Ms. Chy Properly States a Claim under RICO.**

19 Ms. Chy pled sufficient facts to state a RICO claim against Defendants  
20 under 18 U.S.C. § 1962. Defendants argue that Ms. Chy has not alleged two or  
21 more predicate acts, that her allegations do not constitute a pattern with continuity,  
22 and that RICO is limited to a single alleged victim. However, Ms. Chy has alleged  
23 multiple predicate acts constituting a pattern of racketeering activity with sufficient  
24 continuity, and RICO civil claims do not require multiple plaintiffs as a matter of  
25 law.

As applicable to Ms. Chy's experience here, any person injured in her

1 business or property by reason of a violation of RICO may sue to recover damages.  
 2 18 U.S.C. § 1964(c). RICO is to be read broadly, consistent with Congressional  
 3 intent that RICO “be liberally construed to effectuate its remedial purposes.”  
 4 *Sedima, S.P.R.L., v. Imrex Co., 473 U.S. 479, 497-98 (1985)* (citation omitted).  
 5 The elements of a civil RICO claim are: (1) conduct (2) of an enterprise (3)  
 6 through a pattern (4) of racketeering activity (5) causing injury to the plaintiff's  
 7 business or property. *See id.* at 496. Racketeering activity is defined as “any act  
 8 indictable” under specified statutes, including 18 U.S.C. § 1584 (involuntary  
 9 servitude); 18 U.S.C. § 1589 (forced labor); 18 U.S.C. § 1590 (trafficking with  
 10 respect to peonage, slavery, involuntary servitude or forced labor); and 18 U.S.C. §  
 11 1592 (unlawful conduct with respect to documents in furtherance of trafficking,  
 12 peonage, slavery, involuntary servitude or forced labor). 18 U.S.C. § 1961(1). A  
 13 “pattern of racketeering activity” requires “at least two acts of racketeering  
 14 activity,” with the last activity occurring within ten years “after the commission of  
 15 a prior act of racketeering activity.” 18 U.S.C. § 1961(5).

16 **1. Ms. Chy sufficiently alleges a pattern of racketeering.**

17 Ms. Chy alleged multiple predicate acts—involuntary servitude, forced labor,  
 18 trafficking, and unlawful conduct with respect to documents—spanning 22 months,  
 19 which constitutes a pattern of racketeering activity by Defendants. Compl. ¶ 285.  
 20 Defendants do not dispute that the underlying predicates were sufficiently pled, but  
 21 rather that Ms. Chy only alleges a single predicate act. Mem. of P. & A. in Supp.  
 22 Defs.' Mot. 12. This argument fails both legally and factually.

23 **2. Ms. Chy sufficiently alleges multiple predicate acts.**

24 Defendants mischaracterize Ms. Chy's allegations of the distinct RICO  
 25 predicate acts of involuntary servitude, forced labor, trafficking, and unlawful  
 26 conduct with respect to documents as constituting a “single action” of forced labor.

1 *Id.* Defendants argue that this purported “single action” of forced labor, despite  
2 violating multiple statutes and constituting numerous acts by Defendants, counts  
3 only as a single predicate, citing a factually distinguishable criminal RICO case  
4 *United States v. Walgren*, 885 F.2d 1417 (9th Cir. 1989. *Walgren* is not  
5 applicable. In *Walgren*, the defendant challenged his RICO conviction after an  
6 underlying predicate mail fraud charge was vacated, leaving one predicate act  
7 charge based on a single telephone call. *Id.* at 1424. The court held that the  
8 government could not sustain a RICO charge based on the one telephone  
9 conversation, despite the fact that the call violated both a federal and state bribery  
10 statute. *Id.* at 1425-26.

Unlike Walgren, Ms. Chy is not relying on a single act like a telephone conversation to establish a pattern of racketeering activity, but alleges multiple predicate racketeering acts of involuntary servitude, forced labor, trafficking, and unlawful use of documents against Defendants. *Id.* at 1417; Compl. ¶ 285. Even if Walgren's prohibition against charging multiple predicates for the same act applies to civil RICO cases, Ms. Chy alleges multiple, distinct acts: (1) Defendants' confiscation and withholding of her identity and immigration documents (18 U.S.C. § 1592; Compl. ¶¶ 116-122); (2) Defendants obtaining and knowingly benefitting from her forced labor as managers/owners of the businesses and house where she performed labor (18 U.S.C. § 1589; Compl. ¶¶ 103-109); (3) Defendants engaging in multiple incidents of verbal and physical abuse and confinement which induced a condition of servitude by causing her to believe serious harm would result if she ran away from Defendants (18 U.S.C. § 1584; Compl. ¶¶ 96-102); and (4) Defendants trafficking her, including transporting and harboring her, in furtherance of forced labor (18 U.S.C. § 1590; Compl. ¶¶ 110-115).

<sup>26</sup> Indeed, another human trafficking case, *Martinez v. Calmlim*, 651 F. Supp.

1 [2d 852, 859-60 \(E.D Wis. 2009\)](#), provides more analogous precedent for applying  
 2 RICO. In that case, plaintiff alleged RICO predicate acts of trafficking, forced  
 3 labor, harboring, and mail and wire fraud against a family that trafficked her from  
 4 the Philippines, forced her to work for them for little to no pay, and made threats to  
 5 prevent her from leaving for nineteen years. *Id.* at 856, 862. The court held the  
 6 plaintiff's allegations of predicate acts sufficiently plead pattern of racketeering.  
 7 *Id.* at 860. Similarly, in [Nunag-Tanedo v. East Baton Rouge Parish School Board](#),  
 8 the court upheld a RICO claim based on analogous facts to those present here. 790  
 9 F. Supp. 2d 1134, 1148-51 (C.D. Cal. 2011) (finding that Plaintiffs sufficiently  
 10 alleged multiple RICO predicate acts where "Plaintiffs have stated valid claims for  
 11 forced labor, human trafficking, and unlawful document-related practices, and  
 12 these claims may also serve as underlying predicate acts for Plaintiffs' RICO  
 13 claim"). In that case, involving individuals trafficked from the Philippines to work  
 14 as teachers, the court held that allegations of forced labor, trafficking, confiscation  
 15 of documents, and extortion were sufficient to establish a pattern of racketeering  
 16 activity, and denied the Defendants' motion to dismiss. *See id.* at 1134, 1148-51.  
 17 Like [Nunag-Tanedo](#) and [Martinez](#), Ms. Chy sufficiently alleges multiple predicate  
 18 acts based on a scheme that involved repeated but distinct instances of threats and  
 19 harm. *Id.* at 1148. That Defendants' predicate acts may form one scheme does not  
 20 preclude her from showing a pattern of racketeering activity. *See H.J. Inc. v. Nw.*  
 21 [Bell Tel. Co.](#), 492 U.S. 229, 240-41 (1989) (rejecting a requirement of "multiple  
 22 schemes" for a RICO claim).

23 **3. Ms. Chy does not fragment one single act into multiple  
 24 predicates.**

25 Defendants argue that Ms. Chy uses a six-month "visit with her husband"  
 26 Naing Lam Yam—an astonishing characterization of the pleadings, which name  
 27

1 Mr. Yam as a defendant, trafficker, and co-conspirator—to fragment a single  
 2 action of forced labor into two predicate acts. Mem. of P. & A. in Supp. Defs.’  
 3 Mot. 13. Even if this were true, which it is not, Ms. Chy alleges multiple other  
 4 distinct, predicate acts. As explained above, Ms. Chy alleges multiple predicate  
 5 acts that constitute involuntary servitude, forced labor, trafficking, and confiscation  
 6 of documents. Defendants forced Ms. Chy to work long hours in their businesses  
 7 and homes without proper compensation (Compl. ¶¶ 48-51, 66-67, 74); forced Ms.  
 8 Chy to spend nights in the stocking room of their gas station (Compl. ¶¶ 55, 76);  
 9 took measures to ensure Ms. Chy did not escape from their businesses and homes  
 10 (Compl. ¶¶ 57, 66, 68, 76); repeatedly abused and tortured Ms. Chy, to the point  
 11 where Ms. Chy felt her life and her family’s lives were in danger, even causing Ms.  
 12 Chy to attempt to end her life (Compl. ¶¶ 58-61, 65, 77, 78); told Ms. Chy that a  
 13 near-fatal motorbike accident involving Ms. Chy’s mother had occurred because of  
 14 Ms. Chy’s attempt to run away (Compl. ¶ 72); and confiscated and maintained  
 15 control over Ms. Chy’s passport for the duration of Ms. Chy’s captivity (Compl. ¶  
 16 45). Defendants cite to *Polycast Technology Corp. v. Uniroyal*, 728 F. Supp. 926,  
 17 941, 945 (S.D.N.Y. 1989), which is distinguishable because it involves a single set  
 18 of misrepresentations, multiple revisions of a memorandum, and verbal statements  
 19 on the same subject. Unlike in *Polycast*, Ms. Chy does not allege a single set or  
 20 series of acts that amount to one action, but rather, and as set forth above, alleges  
 21 multiple distinct predicate acts within a larger and continuous scheme. *See Nunag-*  
 22 *Tanedo*, 790 F. Supp. 2d at 1148.

23                   **4. Ms. Chy sufficiently pled predicate acts, not “lesser  
 24 offenses.”**

25                   Defendants argue that Ms. Chy pleads “lesser offenses” to allege multiple  
 26 predicate acts. Mem. of P. & A. in Supp. Defs.’ Mot. 13. Any act indictable under  
 27

1 the statutes prohibiting trafficking (§ 1590) and unlawful conduct with respect to  
 2 documents (§ 1592) constitutes racketeering activity. Nothing in the statute listing  
 3 racketeering activity indicates that these are lesser offenses to forced labor. *See* 18  
 4 U.S.C. § 1961(1).

5 Defendants cite to [\*United States v. Biaggi\*, 909 F.2d 662 \(2d Cir. 1990\)](#),  
 6 which, like [\*Walgren\*](#), is inapposite. In [\*Biaggi\*](#), the court overturned a RICO  
 7 conviction because the alleged predicates were based on the same act—accepting a  
 8 promise of employment—which the government inappropriately charged as  
 9 separate counts of accepting a bribe and obstructing justice. *Id.* at 685-87. By  
 10 contrast, Ms. Chy alleges multiple, indeed daily, acts violating four distinct RICO  
 11 predicate statutes, not just a single act violating a single RICO predicate statute.  
 12 Forced labor, for example, is the act of knowingly providing, obtaining, or  
 13 benefiting from the labor or services of a person by any number of forceful or  
 14 threatening means,<sup>4</sup> whereas the withholding of documents is a separate act of  
 15 destruction, concealment, removal, confiscation, or possession of Ms. Chy’s  
 16 property.

17 **5. Ms. Chy sufficiently alleges continuity to establish a pattern  
 18 of racketeering activity.**

19 A pattern of racketeering activity requires “continuity,” in which the two or  
 20 more related predicate acts must “amount to or pose a threat of continued criminal  
 21 activity.” *See H.J. Inc.*, 492 U.S. at 239. Continuity may be either closed-ended or  
 22 open-ended, and Ms. Chy sufficiently alleges facts to establish both types. *See id.*  
 23

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24 <sup>4</sup> Forced labor can be obtained by any one of, or by any combination of, the following  
 25 means: (a) force, threats of force, physical restraint, or threats of physical restraint to that  
 26 person or another person; (b) serious harm or threats of serious harm to that person or  
 27 another person; (c) the abuse or threatened abuse of law or legal process; or (d) any  
 scheme, plan, or pattern intended to cause the person to believe that, if that person did not  
 perform such labor or services, that person or another person would suffer serious harm  
 or physical restraint. 18 U.S.C. § 1589.

1 at 241.

2 a) Closed-ended continuity

3 Ms. Chy alleged facts clearly establishing that she meets RICO's closed-  
 4 ended continuity theory. "A party alleging a RICO violation may demonstrate  
 5 continuity over a closed period by proving a series of related predicates extending  
 6 over a substantial period of time." *Id. at 242*. In *Allwaste, Inc. v. Hecht*, 65 F.3d  
 7 1523, 1528 (9th Cir. 1995), the Ninth Circuit rejected a bright-line rule that a  
 8 "substantial period" requires at least one year, and indicated that allegations of  
 9 activity spanning 13 months could satisfy continuity. For her RICO claim, Ms.  
 10 Chy pleads that Defendants committed predicate acts spanning 22 months. First,  
 11 by subjecting her to involuntary servitude, confiscating her documents, forcing her  
 12 unpaid labor, and trafficking her for five months from June 2013 to October 2013.<sup>5</sup>  
 13 Compl. ¶¶ 45-62, 285. Then, after a six-month period when she was under the  
 14 control of other named defendants, Defendants resumed their violative predicate  
 15 conduct from about April 2014 to September 2015, including continued threats of  
 16 harm, physical abuse, and other forms of coercion that compelled Ms. Chy to  
 17 continue working for Defendants under inhumane conditions. Compl. ¶¶ 72-77,  
 18 285. That second period alone spans 17 months, with a cumulative total of 22  
 19 months of continuous predicate acts—more than the 13 months considered a  
 20 substantial period in *Allwaste*. 65 F.3d at 1528. Thus, Ms. Chy sufficiently  
 21 alleged closed-ended continuity.

22 Defendants resume their argument that Ms. Chy has only alleged a single  
 23 predicate act, "an isolated act or episode of forced labor," and thus cannot establish  
 24 a pattern over a substantial period. Mem. of P. & A. in Supp. Defs.' Mot. 14-15.

25

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26 <sup>5</sup>Defendants inappropriately mischaracterize the period that Defendants Yam, Khiev, and  
 27 Keo harbored Ms. Chy at Defendants Keo and Khiev's house as a "break," when Ms.  
 28 Chy alleged that defendants forced her to stay hidden at all times, such that Ms. Chy felt  
 like a prisoner. Compl. ¶ 285.

1 As discussed above, because Ms. Chy has pled multiple predicate acts that  
2 reoccurred daily for over 22 months, violating four separate RICO predicate  
3 statutes involving involuntary servitude, confiscation of documents, forced labor,  
4 and trafficking, she has alleged conduct that was not isolated, and was indeed  
5 continuous for a substantial period.

b) Open-ended continuity

7 Ms. Chy also pled facts that meet RICO’s alternative open-ended continuity  
8 theory. Open-ended continuity is “established by showing either that the predicate  
9 acts ‘include a specific threat of repetition extending indefinitely into the future’  
10 [threat of continued activity] or that the predicate acts were ‘part of an ongoing  
11 entity’s regular way of doing business.’” *Allwaste*, 65 F.3d at 1527 (quoting *H.J.*  
12 *Inc.*, 429 U.S. at 242). Open-ended continuity does not require that the predicate  
13 acts have stopped. See *Huntair, Inc. v. Gladstone*, 774 F. Supp. 2d 1035, 1046  
14 (N.D. Cal 2011) (rejecting the argument that plaintiffs severed open-ended  
15 continuity by terminating the employee committing a racketeering act).

16 Defendants conduct satisfies RICO’s open-ended continuity theory based on  
17 multiple, alternative tests. First, courts in the Ninth Circuit have held that plaintiffs  
18 can establish a “threat of continued activity,” by pleading that but for some  
19 intervening event defendants would have continued their racketeering activity. *See*  
20 Allwaste, 65 F.3d at 1530 (holding that allegations satisfied open-ended continuity  
21 where they supported an inference that predicate acts could have recurred  
22 indefinitely had defendants not been terminated); *see Huntair*, 774 F. Supp. 2d at  
23 1046 (“There is no indication that the alleged wrongdoing would have stopped had  
24 [the defendant] not been terminated.”).

25 Similar to Allwaste and Huntair, Ms. Chy's Complaint satisfies open-ended  
26 continuity because there is no indication that Defendants would have ceased

1 subjecting her to forced labor, involuntary servitude, or returned her identity  
 2 documents, had it not been for law enforcement rescuing her in September 2015.  
 3 Indeed, Defendants were unwilling to stop their misconduct after Defendant Lam  
 4 returned her to their custody. Defendants resumed their threats, physical and  
 5 verbal abuse, and forced labor against Ms. Chy and Ms. Chy only received her  
 6 identity documents from the police after a raid on Defendants' property recovered  
 7 them. Compl. ¶¶ 72-77, 119.

8 Second, as Ms. Chy does here, a plaintiff can also satisfy open-ended  
 9 continuity by showing that racketeering activity is part of a defendant's regular  
 10 business. *See Allwaste*, 65 F.3d at 1528-29. This may be shown by the "frequency"  
 11 of the predicate activity. *See Ticor Title Ins. Co. v. Florida*, 937 F.2d 447, 450 (9th  
 12 Cir. 1991) (concluding that three forgeries within a 13-month period suggested that  
 13 the "practice had become a regular way of conducting business").

14 Defendants argue without basis that Ms. Chy has not alleged that  
 15 "racketeering is part of the Defendants' regular way of doing business." Mem. of  
 16 P. & A. in Supp. Defs.' Mot. 14-15. To the contrary, the Complaint clearly alleges  
 17 numerous facts indicating that racketeering constituted Defendants' regular way of  
 18 doing business, including that Defendants engaged in racketeering acts spanning a  
 19 period of 22 months, that these acts took place at multiple businesses and their  
 20 home, and that these acts resumed their regular course after Ms. Chy tried to  
 21 escape and was returned to Defendants' control. Compl. ¶¶ 45-62, 285.

22 **6. The Ninth Circuit does not require multiple victims for  
 23 RICO claims.**

24 Relying on cases in other circuits, Defendants erroneously argue that Ms.  
 25 Chy's claims should be dismissed because of her failure to plead multiple victims.  
 26 But the Ninth Circuit has consistently recognized that a pattern of racketeering

1 activity can be brought by a single victim. *See, e.g., Kearney v. Foley and Lardner,*  
2 *LLP*, 607 Fed. App'x 757, 759 (9th Cir. 2015) (holding that “a pattern does not  
3 require multiple victims,” and reversing the district court’s dismissal of a single  
4 victim’s RICO claim); *Sun Sav. & Loan Ass’n. v. Dierdorff*, 825 F.2d 187, 194 (9th  
5 Cir. 1987) (reversing dismissal of RICO claim that alleged a single victim of a  
6 fraudulent scheme). In *Martinez*, the court held a single trafficking victim’s  
7 allegations stated a pattern of racketeering activity. 651 F. Supp. 2d at 856. And  
8 the Supreme Court case *Sedima* involved a single victim. *See* 473 U.S. at 483.  
9 Because the Ninth Circuit does not require multiple RICO victims, Ms. Chy’s is  
10 not precluded from alleging a RICO claim.

7. Ms. Chy has sufficiently alleged conspiracy to commit RICO,

13 Defendants also incorrectly argue that Ms. Chy has not sufficiently alleged  
14 conspiracy to commit RICO. Mem. of P. & A. in Supp. Defs.’ Mot. 16. A RICO  
15 conspiracy under § 1962(d) requires only that a defendant was “aware of the  
16 essential nature and scope of the enterprise and intended to participate in it.”  
17 *United States v. Christensen*, 828 F.3d 763, 780 (9th Cir. 2015). The plaintiff must  
18 allege “either an agreement that is a substantive violation of RICO or that the  
19 defendants agreed to commit, or participated in, a violation of two predicate  
20 offenses.” *Tatung Co., Ltd. v. Hsu*, No. SA CV 13-1743-DOC (ANx), 2015 WL  
21 *11072178, at \*25 (C.D. Cal. Apr. 23, 2015)*. As described above, Ms. Chy has  
22 alleged that Defendants committed or conspired to commit more than two  
23 predicate acts. Compl. ¶ 285. Thus, Ms. Chy has adequately pled conspiracy to  
24 commit RICO.

25 | V. LEAVE TO AMEND

26 In the event that the Court finds any of these arguments insufficient, Ms. Chy

1 requests leave to amend pursuant to Fed. R. Civ. P. 15(a). Fed. R. Civ. P. 15  
 2 advises the court that “leave shall be freely given when justice so requires,” and  
 3 this policy is “to be applied with extreme liberality.” *Eminence Capital, LLC v.*  
 4 *Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (citations omitted). “Where a  
 5 complaint or claim is dismissed, leave to amend generally is granted, unless further  
 6 amendment would be futile.” *Moore v. Comcast Sportsnet, No. C 12-05708 SBA,*  
 7 *2013 WL 451665, at \*1* (N.D. Cal. Feb. 4, 2013) (citing *Chaset v. Fleer/Skybox*  
 8 *Int’l*, 300 F.3d 1083, 1087-88 (9th Cir. 2002)). Indeed, “[d]ismissal without leave  
 9 to amend is proper only in extraordinary cases.” *Broam v. Bogan*, 320 F.3d 1023,  
 10 *1028* (9th Cir. 2003) (citation omitted); *see also Summers v. Delta Airlines, Inc.*,  
 11 *805 F. Supp. 2d 874, 887* (N.D. Cal. 2011) (granting a plaintiff leave to amend her  
 12 NIED claim, given that “it is possible that Plaintiff may have some other basis for  
 13 her negligent infliction of emotional distress claim that is unrelated to the  
 14 negligence that allegedly caused her physical injuries.”); *Ford*, 2013 WL 3941335,  
 15 *at \*8* (granting the plaintiff leave to amend the complaint where the court  
 16 determined that “the facts in plaintiff’s complaint are insufficient to determine  
 17 whether he meets the factors for equitable tolling”).

18 There is no evidence to suggest that amendment would be futile in this case,  
 19 nor that this case is extraordinary, and while Defendants cite to *Abagnin v.*  
 20 *AMVAC Chem. Corp.*, 545 F.3d 733, 742 (9th Cir. 2008) (holding that denials of  
 21 leave to amend are made only when “allegation of other facts consistent with the  
 22 challenged pleading could not be cured,” or when a plaintiff has *repeatedly* failed  
 23 to cure deficiencies), they fail to acknowledge that Ms. Chy has made repeated  
 24 good faith efforts to cure alleged deficiencies, including by meeting with opposing  
 25 counsel on several occasions and filing her First Amended Complaint. If further  
 26 pleading is determined necessary, she should be given an opportunity to clarify or

1 expand upon the alleged facts.

2 **VI. CONCLUSION**

3 For the above reasons, Defendants' motion should be denied.

4 Dated: October 16, 2017

5 **WILMER CUTLER PICKERING HALE  
AND DORR LLP**

6 By: /s/ Lori Echavarria

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**CERTIFICATE OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Wilmer Cutler Pickering Hale and Dorr LLP, 350 South Grand Avenue, Suite 2100, Los Angeles, California 90071.

I hereby certify that a true and correct copy of the above and foregoing document has been served on October 16, 2017, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Civil Local Rule 5-3.2.3. All other parties who have not consented to electronic service via the Court's CM/ECF system will be served by U.S. Mail as follows:

**(BY U.S. MAIL)** I caused such document(s) to be deposited with the U.S. Postal Service by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

## Via CM/ECF Electronic Service

Heidi S. Lewis  
SULLIVAN, KRIEGER, TRUONG,  
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Attorney for Defendants Lam Sin Yam; Ray Lim; Tiffany Ngo; Ngo Asset Management, LLC; Tiffany Ngo in her capacity as trustee of the Tiffany Ngo Living Trust UTD; Cruise Thru Dairy, d/b/a Cruise Thru Dairy; Valero Mart Inc., d/b/a Valero Mart/ Arco Market Inc.; and Tiffany Ngo, d/b/a Speedy Wash

**CERTIFICATE OF SERVICE**  
(Continued)

Via U.S. Mail  
Molica Ratha Keo  
Long Beach, CA

Via U.S. Mail  
Nivodeth Khiev  
Long Beach, CA

Via U.S. Mail  
Naing Lam Yam  
Long Beach, CA

**Via U.S. Mail**  
Cindy Kanya Chan  
Long Beach, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 16, 2017 at Los Angeles, California

Gina N. Gaytan